

## 2003 SENATE BILL 447

February 10, 2004 – Introduced by Senators COWLES, ELLIS, HARSDORF and KANAVAS, cosponsored by Representatives WEBER, VAN ROY, KRAWCZYK, NASS, LADWIG, GUNDERSON, M. LEHMAN, ALBERS, MCCORMICK, TOWNSEND, HONADEL and OTT. Referred to Committee on Transportation and Information Infrastructure.

1     **AN ACT** *to renumber* 13.489 (1) and 85.05; *to renumber and amend* 13.489  
2           (1m) (a) and 13.489 (2); *to amend* 13.489 (4) (a) 1. a., 13.489 (4) (a) 1. b. and  
3           85.05 (title); and *to create* 13.489 (2) (a) and (b), 13.489 (2m), 84.013 (10) to (12)  
4           and 85.05 (2) of the statutes; **relating to:** major highway projects and the  
5           Transportation Projects Commission.

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### ***Analysis by the Legislative Reference Bureau***

Current law generally requires that any major highway project, unlike other construction projects undertaken by the Department of Transportation (DOT), receive the approval of the Transportation Projects Commission (TPC) and the legislature before the project may be constructed. With limited exceptions, a major highway project is a project having a total cost of more than \$5,000,000 and involving construction of a new highway 2.5 miles or more in length; reconstruction or reconditioning of an existing highway that relocates at least 2.5 miles of the highway or adds one or more lanes five miles or more in length to the highway; or improvement of an existing multilane divided highway to freeway standards.

Under current law, DOT submits a list of potential major highway projects to the TPC for study and recommendation by the TPC. DOT may not begin preparing an environmental impact statement (EIS) or environmental assessment (EA) for a potential major highway project without TPC approval. Although DOT generally may not begin construction of a major highway project without the approval of the TPC and the legislature, the legislature may enumerate and approve the

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construction of major highway projects without approval by the TPC. The TPC may not recommend approval of a major highway project unless the TPC determines that there is sufficient funding to begin construction of the project within six years.

This bill requires DOT to report to the TPC each major highway project for which a draft EIS or EA or final EIS or EA has been completed, and prohibits the TPC from recommending approval of any major highway project prior to the completion by DOT of a final EIS or EA approved by the Federal Highway Administration.

The bill also imposes numerous financial reporting requirements on DOT for all potential major highway projects. The bill requires DOT to establish procedures for identifying, tracking, recording, and maintaining expenditure information on all potential major highway projects, and requires comprehensive, standardized, and consistently prepared financial and project cost information for all expenditures associated with each project. The bill requires DOT to compile and maintain complete and itemized project cost information, including both cost estimates and actual costs, for all potential major highway projects. Any draft or final EIS or EA prepared by DOT must include project cost information prepared in accordance with these requirements. The bill also requires DOT to establish procedures for determining, and to determine, that portion of each project's construction costs attributable to the cost of compliance with state and federal environmental laws.

The bill requires DOT to report to the TPC annually, for each potential major highway project and for the major highway project program as a whole, all project cost information, and specified other project information, on a cumulative basis and on an updated basis as compared to the prior reporting period.

The provisions of the bill generally become effective on January 1, 2005 and apply to potential major highway projects initiated for consideration by the TPC after that date.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 13.489 (1) of the statutes is renumbered 13.489 (1g).

2           **SECTION 2.** 13.489 (1m) (a) of the statutes is renumbered 13.489 (1c), and  
3 13.489 (1c) (intro.), as renumbered, is amended to read:

4           13.489 (1c) (intro.) In this subsection section:

5           **SECTION 3.** 13.489 (2) of the statutes is renumbered 13.489 (2) (intro.) and  
6 amended to read:

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1           13.489 (2) DEPARTMENT TO REPORT PROPOSED PROJECTS. (intro.) Subject to s.  
2           85.05 (1), the department of transportation shall report to the commission not later  
3           than September 15 of each even-numbered year and at such other times as required  
4           under s. 84.013 (6) concerning its recommendations for adjustments in the major  
5           highway projects program under s. 84.013. Any report submitted under this  
6           subsection shall include all of the following:

7           **SECTION 4.** 13.489 (2) (a) and (b) of the statutes are created to read:

8           13.489 (2) (a) A list of potential major highway projects approved under sub.  
9           (1m) (d) for which the department has completed draft environmental impact  
10          statements or environmental assessments and for which the department  
11          recommends approval to proceed with preparation of a final environmental impact  
12          statement or environmental assessment.

13          (b) A list of potential major highway projects approved under sub. (2m) for  
14          which the department has completed final environmental impact statements or  
15          environmental assessments and obtained approval from the federal highway  
16          administration and for which the department recommends approval under sub. (4).

17          **SECTION 5.** 13.489 (2m) of the statutes is created to read:

18          13.489 (2m) APPROVAL OF DRAFT ENVIRONMENTAL STUDIES. In conducting its  
19          review under sub. (4) of reports submitted as provided by sub. (2), the commission's  
20          report under sub. (4) shall notify the department of projects specified in sub. (2) (a)  
21          that the commission approves for preparation of a final environmental impact  
22          statement or environmental assessment or shall notify the department that it does  
23          not approve any project specified in sub. (2) (a) for preparation of a final  
24          environmental impact statement or environmental assessment. The department of  
25          transportation may not proceed with preparation of a final environmental impact

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1 statement or environmental assessment unless the commission notifies the  
2 department that the project is approved under this subsection.

3 **SECTION 6.** 13.489 (4) (a) 1. a. of the statutes is amended to read:

4 13.489 (4) (a) 1. a. The commission determines that, within 6 years after the  
5 first July 1 after the date on which the commission recommends approval of the  
6 project, construction will be commenced on all projects enumerated under s. 84.013  
7 (3) and on the project recommended for approval and that the department has  
8 completed a final environmental impact statement or environmental assessment  
9 and obtained approval for the project from the federal highway administration.

10 **SECTION 7.** 13.489 (4) (a) 1. b. of the statutes is amended to read:

11 13.489 (4) (a) 1. b. The report recommending approval of the project is  
12 accompanied by a financing proposal that, if implemented, would provide funding in  
13 an amount sufficient to ensure that construction will commence on all projects  
14 enumerated under s. 84.013 (3) and on the project within 6 years after the first July  
15 1 after the date on which the commission recommends approval of the project and  
16 the commission determines that the department has completed a final  
17 environmental impact statement or environmental assessment and obtained  
18 approval for the project from the federal highway administration.

19 **SECTION 8.** 84.013 (10) to (12) of the statutes are created to read:

20 84.013 (10) (a) For each potential major highway project submitted by the  
21 department to the transportation projects committee for consideration at any time  
22 under s. 13.489 and each major highway project enumerated under sub. (3) or  
23 approved under sub. (6), the department shall compile and maintain, in accordance  
24 with the procedures established under s. 85.05 (2), complete financial data for all

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1 project costs that identifies both total project costs and itemized project costs, which  
2 itemization shall include costs associated with all of the following:

- 3 1. Construction and construction contracts.
- 4 2. Design work.
- 5 3. Construction engineering.
- 6 4. Acquisition of interests in real estate, including rights-of-way, correlated to  
7 type of interest and number of acres acquired.
- 8 5. Utility relocation.
- 9 6. Home and business relocation.
- 10 7. Environmental compliance, other than costs specified under par. (c) 1.,  
11 including consultant contracts, services of state agencies, and staffing.
- 12 8. Administration.

13 (b) The financial data required under par. (a) shall include, for each item of  
14 itemized cost, both the department's cost estimate and, if any funds have been  
15 expended, the department's actual expenditure.

16 (c) For each project specified in par. (a), the department shall compile and  
17 maintain, in accordance with the procedures established under s. 85.05 (2), complete  
18 financial data related to all of the following:

- 19 1. The department's determination, in accordance with procedures established  
20 under s. 85.05 (2) (b), of that portion of costs specified under par. (a) 1. that are  
21 attributable to the cost of compliance with state and federal environmental laws.
- 22 2. The department's estimate of necessary contingency costs for the project.
- 23 3. The department's estimate of anticipated future highway maintenance costs  
24 associated with the project.

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1           (d) For each project for which financial data is required under this subsection,  
2 the department shall compile and maintain, in accordance with the procedures  
3 established under s. 85.05 (2), the financial data for every phase of the project, and  
4 shall retain the financial data for not less than 10 years after the discontinuance of  
5 any project or, if construction of the project is completed, for the duration of the life  
6 of the highway.

7           **(11)** Any draft or final environmental impact statement or environmental  
8 assessment prepared by the department in connection with a project specified under  
9 sub. (10) (a) shall, for each project alternative identified in the environmental impact  
10 statement or environmental assessment, include all financial data specified in sub.  
11 (10), prepared in accordance with procedures specified in s. 85.05 (2).

12           **(12)** (a) By January 1, 2005, and annually thereafter, the department shall  
13 report to the transportation projects commission, for each project specified in sub.  
14 (10) (a), all of the following:

15           1. All information specified in sub. (10).

16           2. Any significant change in concept, design, or scope of the project.

17           3. With respect to any project for which the department has entered into any  
18 construction contract, any contract change order or other amendment to the  
19 contract, the reason for the change order or amendment, and the project cost impact  
20 of the change order or amendment.

21           4. With respect to any project enumerated under sub. (3) or approved under  
22 sub. (6) for which the department has separated a portion of the project or combined  
23 a portion of the project with another project, a description of the change in the project  
24 and, in addition to the information under subd. 1., all information specified in sub.  
25 (10) for the project calculated as if no such change had occurred.

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1 (b) The report under par. (a) shall include both cumulative project information  
2 and project information for the most recent year that is compared to project  
3 information included in the prior reporting period.

4 (c) The report under par. (a) shall include aggregated and comprehensive  
5 project expenditures for each project specified in sub. (10) (a) and for the entire major  
6 highway projects development program.

7 **SECTION 9.** 85.05 (title) of the statutes is amended to read:

8 **85.05** (title) **~~Evaluation of Procedures for proposed major highway~~**  
9 **projects.**

10 **SECTION 10.** 85.05 of the statutes is renumbered 85.05 (1).

11 **SECTION 11.** 85.05 (2) of the statutes is created to read:

12 **85.05 (2)** (a) The department shall establish procedures for identifying,  
13 tracking, recording, and maintaining expenditure information on all potential major  
14 highway projects submitted by the department to the transportation projects  
15 committee for consideration at any time under s. 13.489 and on all major highway  
16 projects enumerated under s. 84.013 (3) or approved under s. 84.013 (6). The  
17 department's procedures shall require comprehensive, standardized, and  
18 consistently prepared financial and project cost information for all expenditures  
19 associated with each project and shall require that the same procedures be followed  
20 on every project. These procedures shall be used for the development of project cost  
21 estimates for each proposed highway project, including all design alternatives for the  
22 project, and shall require that all anticipated project costs be included in any total  
23 project cost estimate.

24 (b) For each project specified under par. (a), the department shall establish  
25 procedures for determining that portion of expenditures, within each bid item of each

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1 construction contract, attributable to the cost of compliance with state and federal  
2 environmental laws. The department shall consult with the department of natural  
3 resources and construction contractors in establishing procedures under this  
4 paragraph. Each construction contract entered into by the department shall require  
5 the contractor to cooperate with the department, and provide information the  
6 department determines to be necessary, to implement the procedures established  
7 under this paragraph.

8 **SECTION 12. Initial applicability.**

9 (1) This act first applies to projects first submitted to the transportation  
10 projects commission for consideration under section 13.489 of the statutes on the  
11 effective date of this subsection.

12 (2) The treatment of section 85.05 (2) (b) of the statutes first applies to contracts  
13 entered into on the effective date of this subsection.

14 **SECTION 13. Effective dates.** This act takes effect on January 1, 2005, except  
15 as follows:

16 (1) The treatment of section 84.013 (12) of the statutes, the renumbering of  
17 section 85.05 of the statutes, the amendment of section 85.05 (title) of the statutes,  
18 and the creation of section 85.05 (2) of the statutes take effect on the day after  
19 publication.

20 (END)